

COPY

Approved: Jennifer L. Beidel
JENNIFER L. BEIDEL
Assistant United States Attorney

Before: HONORABLE JUDITH C. MCCARTHY
United States Magistrate Judge
Southern District of New York

- - - - - X
UNITED STATES OF AMERICA : SEALED COMPLAINT
- v. - : Violation of
ANDREW GROGAN, : 21 U.S.C. §§ 812, 841, and
Defendant. : 846 and 18 U.S.C. § 2
COUNTY OF OFFENSE:
ROCKLAND

- - - - - X 15m3698
SOUTHERN DISTRICT OF NEW YORK, ss.:

Louis M. Schmidt, being duly sworn, deposes and says
that he is a Special Agent with the Drug Enforcement
Administration ("DEA"), and charges as follows:

COUNT ONE

1. From at least in or about January 2015, up to and
including in or about October 2015, in the Southern District of
New York and elsewhere, ANDREW GROGAN, the defendant, and others
known and unknown, intentionally and knowingly did combine,
conspire, confederate, and agree together and with each other to
violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy
that ANDREW GROGAN, the defendant, and others known and unknown,
would and did distribute and possess with intent to distribute
controlled substances, in violation of Title 21, United States
Code, Section 841(a)(1).

3. The controlled substances involved in the offense
were: (a) a quantity of 1-(5-Fluoropentyl-3-(2,2,3,3-
tetramethylcyclopropoyl) indole ("XLR11"), a Schedule I
controlled substance; and (b) a quantity of N-(1-amino-3-methyl-
1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide
("AB-CHMINACA"), a Schedule I controlled substance, in violation

of 21 U.S.C. § 841(b)(1)(C).

(Title 21, United States Code, Section 846.)

COUNT TWO

4. From at least in or about January 2015, up to and including in or about October 2015, in the Southern District of New York and elsewhere, ANDREW GROGAN, the defendant, intentionally and knowingly did distribute and possess with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

5. The controlled substances involved in the offense were: (a) a quantity of XLR11, a Schedule I controlled substance; and (b) a quantity of AB-CHMINACA, a Schedule I controlled substance, in violation of 21 U.S.C. § 841(b)(1)(C).

(Title 21, United States Code, Sections 812, 841(a)(1), and 841(b)(1)(C), and Title 18, United States Code, Section 2.)

The bases for my knowledge and the foregoing charges are, in part, as follows:

6. I am a DEA Special Agent, and I have been personally involved in the investigation of this matter. This Affidavit is based upon my personal participation in the investigation, my examination of reports and records, and my conversations with other law enforcement officers and other individuals. Because this Affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

7. Based on my training and experience and my conversations with other law enforcement agents, I am familiar with various types of controlled substances that are often distributed illegally. As relevant to this investigation, I have learned the following:

a. XLR11 and AB-CHMINACA are smokeable synthetic cannabinoids ("SSCs").

b. SSCs are made by mixing illegal synthetic

compounds with chemical solvents, such as acetone and/or flavoring additives, and spraying the resulting mixture onto leafy materials, such as tea leaves.

c. SSCs are typically bundled into retail packets bearing colorful logos and brand names such as "AK-47," "Blue Caution," "Green Giant," "Geeked Up," "Psycho," "Red Eye," and "Black Extreme," each containing between approximately three and six grams of product, and sometimes marked "not for human consumption" or "potpourri."

d. SSCs are popular among teenagers and young adults. They are widely accessible because they are inexpensive and commonly sold at otherwise legitimate retail locations. The colorful logos used on SSC retail packets and the flavors used, such as lime, strawberry, and blueberry, make SSCs attractive to teenagers and young adults.

e. Physical effects of SSCs include agitation, rapid heart rate, confusion, dizziness, nausea and vomiting, paranoia, panic attacks, and acute kidney injury. SSCs have inconsistent potencies, often contain more than one synthetic compound, and are sometimes laced with other toxic chemicals. In a recent two-month period, use of SSCs resulted in 2,300 emergency room visits in New York State. Nationally, telephone calls to poison centers related to SSC use between January and May 2015 increased 229% over the same period in 2014. SSCs may also be particularly dangerous for individuals with existing psychological issues, causing worsening of previous psychotic symptoms including the emergence of command and paranoid auditory hallucinations.

8. Based on my review of records and on interviews I conducted, I have learned, in substance and in part, the following:

a. On or about January 10, 2015, an individual ("Victim-1") overdosed after consuming a mixture of four packets of SSCs labeled "Tranquility," "Meditate," "Karma," and "Dream Catcher" (the "January 10, 2015 Mixture").

b. The January 10, 2015 Mixture had been purchased by two friends of Victim-1 from Liquid Glass, a store in Nyack, New York owned by ANDREW GROGAN, the defendant.

9. Based on my review of medical and laboratory records and on interviews I conducted, I have learned, in

substance and in part, the following:

a. After receiving medical treatment, Victim-1 survived the overdose, but tested positive for cannabinoids.

b. The January 10, 2015 Mixture later tested positive for AB-CHMINACA.

10. Between on or about July 8, 2015 and on or about September 9, 2015, law enforcement conducted or attempted to conduct four controlled buys from ANDREW GROGAN, the defendant, at Liquid Glass. Based on my surveillance of and personal involvement in those controlled buys, I have learned, in substance and in part, the following:

a. At the direction of law enforcement, on or about July 8, 2015 ("Controlled Buy-1") and on or about July 23, 2015 ("Controlled Buy-2"), a confidential informant ("CI-1")¹ made or attempted to make controlled purchases of SSCs from GROGAN at Liquid Glass.

b. In preparation for Controlled Buy-1 and Controlled Buy-2, I searched CI-1's person and confirmed that there was no contraband on CI-1's person, transported CI-1 to the vicinity of Liquid Glass, gave CI-1 \$200 in prerecorded United States currency, and outfitted CI-1 with a video and audio recording device.

c. During Controlled Buy-1 and Controlled Buy-2, after CI-1 exited the law enforcement vehicle, I and other law enforcement officers conducted surveillance of CI-1 as CI-1 entered and exited Liquid Glass and as CI-1 returned to meet me and other law enforcement officers at a predetermined meeting location. On each occasion, I recovered from CI-1 the recording device.

d. After Controlled Buy-1, I recovered from CI-1 two packets labeled "Geeked Up," which I later submitted to the laboratory for testing, and confirmed that there was no other money or contraband on CI-1's person.

¹ CI-1 is a paid informant. Law enforcement believes that the information CI-1 provided in connection with this investigation is reliable, as CI-1 provided information relating to this investigation that was independently corroborated.

e. On or about July 29, 2015 ("Controlled Buy-3") and on or about September 9, 2015 ("Controlled Buy-4"), an undercover agent ("UC-1"), accompanied by CI-1, made controlled purchases of SSCs from GROGAN at Liquid Glass. On both occasions, I provided UC-1 with prerecorded United States currency and outfitted UC-1 with a video and audio recording device.

f. After Controlled Buy-3, I recovered from UC-1 three packets labeled "Green Giant," which I later submitted to the laboratory for testing.

g. After Controlled Buy-4, I recovered from UC-1 twenty packets labeled "Geeked Up," which I later submitted to the laboratory for testing.

11. Based on debriefs of CI-1 that I conducted after Controlled Buy-1 and Controlled Buy-2, I have learned, in substance and in part, the following:

a. During Controlled Buy-2, CI-1 did not complete the controlled buy because ANDREW GROGAN, the defendant, had told CI-1 that he was "all out" of "Geeked Up" because there had been a festival in the area the week before that had "kids lined up outside the door" to buy GROGAN's products.

b. During Controlled Buy-1 and Controlled Buy-2, GROGAN discussed having limited supplies of "Geeked Up" and needing to pick more up from a supplier after hours.

12. Based on a debrief of UC-1 that I conducted after Controlled Buy-3, I have learned, in substance and in part, the following:

a. During Controlled Buy-3, ANDREW GROGAN, the defendant, used a phone to contact an individual who seemed to be his supplier of SSCs.

b. During Controlled Buy-3, GROGAN described "Geeked Up" and "Green Giant" as "close to smoking weed" and discussed other brands of SSCs that people have "tripped out" on, including "Extreme," "Red Eyed Jack," "Scooby Snacks," "Joker," and "AK 47."

13. Based on my review of laboratory reports and my

conversations with laboratory personnel, I have learned, in substance and in part, the following:

a. The two packets labeled "Geeked Up" that I recovered after Controlled Buy-1 contained a substance that tested positive for XLR11.

b. The three packets labeled "Green Giant" that I recovered after Controlled Buy-3 contained a substance that tested positive for XLR11.

c. The test results for the twenty packets labeled "Geeked Up" that I recovered after Controlled Buy-4 are not yet available.

14. On or about September 14, 2015, I and other law enforcement conducted surveillance on ANDREW GROGAN, the defendant. Based on the surveillance that I conducted, I have learned, in substance and in part, the following:

a. At approximately 6:52 p.m., I observed GROGAN leave Liquid Glass, walk to his home, and then drive by himself to a store in New York, New York (the "Store").

b. I observed an undercover agent ("UC-2") follow GROGAN into the Store.

c. I then observed GROGAN leave the Store, return to his car, and drive back in the direction of Nyack, New York.

d. At approximately 7:47 p.m., I observed local law enforcement officers conduct a traffic stop of a vehicle driven by GROGAN in Nyack, New York (the "Traffic Stop").

15. Based on a debrief of UC-2 that I conducted after the Traffic Stop, I have learned, in substance and in part, the following:

a. While in the Store, UC-2 saw ANDREW GROGAN, the defendant, hand the Store clerk money, receive a small black plastic bag, and open the black plastic bag to count its contents.

b. When GROGAN opened the black plastic bag, UC-2 saw orange colored packets inside of the bag.

16. Based on my review of reports from the Traffic Stop and my conversations with local law enforcement officers, I have learned, in substance and in part, the following:

a. Local law enforcement officers arrested ANDREW GROGAN, the defendant, for aggravated unlicensed operation of a motor vehicle, false personation, and criminal impersonation.

b. An inventory search of the car GROGAN was driving revealed a black plastic bag containing ten packets labeled "Scooby Snacks."

17. I later submitted one of the ten packets labeled "Scooby Snacks" from the Traffic Stop for laboratory testing and, based on my review of laboratory records, that packet tested positive for XLR11.

18. Based on a debrief of UC-1 and on my review of an audio recording, I have learned, in substance and in part, the following:

a. On or about October 1, 2015, UC-1 contacted ANDREW GROGAN, the defendant, by phone and attempted to arrange a purchase of SSCs.

b. During the call, GROGAN explained that a shipment would be available by the following day. GROGAN used vague language like "my thing is coming tomorrow" and "he shipped me something," which based on my training and experience, is the type of vague language that is often used by drug dealers to evade detection by law enforcement.

WHEREFORE, deponent prays that ANDREW GROGAN, the defendant, be imprisoned, or bailed, as the case may be.

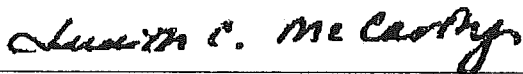


LOUIS M. SCHMIDT

Special Agent

Drug Enforcement Administration

Sworn to before me this
14th day of October, 2015



HONORABLE JUDITH C. MCCARTHY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK